



December 1, 2016

RE: Hawaii's Longline Fishing Industry, Labor Abuses Including Human Trafficking, and Potential Aggravated Vulnerabilities in National Security

Aloha, Members of the Committee on Natural Resources, Congressional Members and Staff, and the General Public:

The Pacific Alliance to Stop Slavery (PASS) recognizes the importance of a vibrant economy and fully supports Hawaii's fishing industry, but strongly recognizes that significant steps must be made to reform current exploitative labor practices of the state's longline fishing industry. With regard to this industry, which prides itself on being environmentally sustainable, PASS urges transparency and compliance with Hawaii state law and Federal law, with regard to immigration, foreign labor, and deportation, as well as the creation of a new work visa for longline fishermen, recruited to work in the U.S. from foreign countries.

In addition to the [findings published by the Associated Press](#) on September 8th 2016, giving cause for this important discussion, PASS would like to apprise the Committee of these important facts:

#### **OVERVIEW OF PROBLEM**

- 1) Several hundred undocumented foreign workers, with no legal status, are allowed state fishing licenses and the ability to work for cash on U.S. flagged fishing vessels in Hawaii, while technically in a state of *extended* deportation under the I259. It is estimated that this labor scheme has been in place for approximately two decades. In 2011, the late Senator Daniel Inouye addressed, in writing, a proposal put forth by the Hawaii Longline Association, which resulted in Customs Border Patrol (CBP) to issue I259s to recruited foreign fishermen entering Hawaiian waters. It was this specific I259 procedure that was deemed by the late Senator as "in the public interest," which enabled the confinement of recruited foreign workers in the longline fishing industry, resulting in serious labor exploitation and even human trafficking.

#### **INTENTIONAL OR NEGLIGENT BARRIERS TO LANGUAGE ACCESS**

- 2) It is unjust and unlawful, under the federal **Civil Rights Act (Title VI)**, not to make reasonable efforts to ensure that applicants understand the terms and conditions of the license for which they are applying. State law, under **HRS 321(c)(2)**, requires that vital documents, such as printed documents like applications, must be translated by state agencies. Currently, no effort is made to address these major concerns, to comply with either federal or local law, and hundreds of recruited foreign workers sign labor contracts, which they cannot read, written in English and not in their native language. The workers are most certainly unaware

that, once they arrive to Honolulu harbor, they will be immediately put into a deportation procedure by CBP (I259).

### **MISUSE OF DEPORTATION PROCEDURE**

- 3) The I259 is a deportation document issued by CBP to deport a foreigner who has been deemed without legal presence in the U.S.. Strangely, the I259 form is also a document which the State of Hawaii Department of Aquatic Resources requires for these technically illegal workers to obtain State fishing licenses. The legality of this has neither been challenged nor investigated locally.

The I259 requires workers to be "detained on board" for the entire duration of their stay at the piers, they may be deported at any time at the discretion of CBP, they may not transfer to other boats, and they must turn over their passports to their boat captain. PASS argues that the I259 was not intended to facilitate labor exploitation or in the obtaining of state fishing licenses, nor was it intended to apply to foreigners who have been deemed with no legal presence *for extended periods of time*, especially not for profitable purposes in a U.S. industry. The average "contract" period per worker is two years. Some have remained on boats in Honolulu for up to five years, again, in a state of deportation under the I259.

In lieu of a proper U.S. work visa which would allow these fishermen basic human rights and a cause for action, the I259 is the single law enforcement document that turns the Constitution inside out. The I259 prohibits, for these exploited foreign workers, access to justice, access to proper medical care, labor representation and protections, and housing, among other basic necessities. These workers are not allowed to step foot on U.S. soil and are technically not "present" in the country. For these reasons, federal and local government agencies and law enforcement claim they lack "jurisdiction" to further an investigation into wage and labor abuses, human smuggling, and human trafficking.

Furthermore, because these foreign workers have no legal presence in the U.S., and because of the deportation procedure under the I259, any contractual remedy proffered by the industry to "end human trafficking" would have no effect on the rights of any exploited worker, as none of the foreign fishermen in Hawaii have any legal standing in the U.S.

### **DENIAL OF BASIC SANITATION**

- 4) The workers urinate and defecate on buckets, since their boats have no bathroom facilities. These buckets are not disposed of properly. While there is a single bathroom on one of the main piers, CBP needs to authorize any worker wishing to use the toilet at the pier. There is one toilet for over 600 longline fishermen in Honolulu registered with the State.

Buckets with human waste are often thrown overboard while docked or at sea. Because of this denial of basic sanitation, PASS is concerned about the potential for diseases such as Hepatitis A and other infections that may be transferred from worker to their fish which then enters into U.S. fish markets and eventually finds their way onto the plates of American consumers.

**POSSIBLE VULNERABILITY IN NATIONAL SECURITY**

5) While PASS remains in strong support of immigration reform to allow aspiring Americans to become naturalized citizens, we see a serious issue in the lack of regulation allowing undocumented, unscreened, and unvetted, foreign recruits from Mindanao and Indonesia access to Hawaiian waters and unprotected borders. Entering the U.S. through the Pacific Hawaiian gateway is as easy as simply hopping onto a boat in American Samoa and taking a week long sea trek on a U.S. flagged longline fishing boat headed to Honolulu, Hawaii.

Warfare has changed since the bombing of Pearl Harbor on December 7th 1941. Chemical and germ warfare has become a very real problem and would be extremely problematic if enemies of our nation decide to use these weapons. While we fortify our front to bear the brunt of the worst attacks, many times the most harmful assaults are the attacks from places we do not expect—through our backdoor. Allowing hundreds of undocumented workers with no legal status, from countries with growing numbers of recruits for ISIS in the Asian region, to work in immediate proximity to a U.S. state, leaves one backdoor wide open.

A remedy to all this would be to create a new work visa for this type of labor. Please seriously consider this. What is going on in Hawaii's longline industry is unconstitutional, immoral, and unpatriotic.

Sincerely,



Kathryn Xian  
Executive Director  
Pacific Alliance to Stop Slavery